

REMARKS

Applicants gratefully acknowledge the courtesy of a personal interview granted to Applicants' representative, James M. Heintz, on February 3, 2004. At the interview, Applicants' representative discussed why the shape of the rib of the present invention is characterized as Y shaped and pointed out the discussion in the specification of the channel formed by the branches of the Y to the Examiner. Applicants representative also discussed the composition of the seal ring 65 of Traub as being rubber and therefore being unsuitable for a rib. Also discussed was an amendment to clarify that the distal and proximal ends of the trunk section were taken along the length rather than the width of the trunk section.

Claims 1-73 are pending in the application. Claims 4, 6, 7, 9-30, 35-37, 41, 43-47 and 49-72 have been withdrawn from consideration as a result of Applicants' response to the restriction/election requirement. Applicants note that the cover sheet from the last Office Action incorrectly states that these claims are no longer pending and respectfully request acknowledgment of the pendency of these claims in the next communication from the Office and allowance of non-elected species Claims 4, 6, 7, 9-30, 35-37, 41 and 43-47 upon allowance of Claims 1 and 31. Applicants further request confirmation from the Examiner that Claims 57-72 were also subject to the first restriction requirement or examination of these claims if not.

Claims 1-3, 5, 8, 31-34, 38-40, 42 and 48 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. This rejection is traversed. Each of these claims is an original claim. "There is a strong presumption that an adequate written description of the claimed invention is present in the specification as filed." M.P.E.P. § 2163(II)(A). "Consequently, rejection of an original claim for lack of written description should be rare." Id. The basis for the examiner's rejection is that "it has not been adequately described how the ribs are in the form of a 'y' shape." However, the originally filed

claims clearly require “y” shaped ribs, and further state that “the rib body has a cross section defined by a trunk with a proximal end and a distal end and two branch sections connected to the proximal end, the branch sections being positioned to result in the cross section being in the shape of a “Y.” A “Y” differs from a “T” in that a T, to the extent that it can be said to have branches, has branches that together form a straight line (i.e., the branches form a 180 degree angle with respect to each other) whereas the branches of a Y do not form a straight line. The specification discloses that “the ‘Y’ cross sectional shape of the rib provides a channel between the branches of the ‘Y.’” Page 2, lines 17-18. This channel is illustrated in Figs. 1 (element 130) and 2 (element 230). As discussed in the specification (e.g., page 2, lines 18-19, page 7, lines 9-10), this channel can form part of an annular space when such a rib is installed in a double walled underground storage tank. A channel such as this is not present in a “T” shaped rib because the top of the “T” is flat. Applicants respectfully submit that the invention of Claims 1-3, 5, 8, 31-34, 38-40, 42 and 48 is fully described in the originally filed application and respectfully request withdrawal of the rejection.

Claims 1, 3, 5, 8, 31-34, 38-40, 42 and 48 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite. This rejection also concerns the “Y” limitation. Specifically, the examiner asserts that it is not clear what distinguished a “Y” shape from a “T” shape. Applicants respectfully submit that the difference between a “Y” and a “T” shape is that the “branches” of a T together form a straight line, whereas the branches of a “Y” do not. Each of the figures of the application show branches that do not form straight lines but rather are angled to form a channel. See, e.g., Figs. 1 (element 130) and 2 (element 230) and the accompanying description of these figures in the specification. Withdrawal of the rejection is respectfully requested.

Claims 1, 3, 5 and 8 stand rejected under 35 U.S.C. § 102(b) as anticipated by Traub. This rejection is respectfully traversed. Each of the rejected claims is directed toward a “rib for a

storage tank” and recite “a rib body” comprising fiberglass. A rib is “a structural member that supports the shape of something.” The Random House Dictionary of the English Language, 2d ed. 1987. The rejection states that element 65 of Figure 4 of Traub anticipates the claimed rib. In contrast to the rib of Claims 1-3, 5 and 8, element 65 of Traub is a “resilient seal ring.” This resilient seal ring 65 is constructed of an elastomeric material such as rubber. See col. 5, lines 19-22 and col. 3, lines 39-41. Thus, the resilient seal ring 65 is not a structural member as required by the rejected claims.

Furthermore, the office action takes official notice that it is well known to provide seals made of fiberglass and to provide high modulus material in the trunk and that it would have been obvious to employ these features in the seal of Traub. Applicants respectfully disagree. The seal ring 65 of Traub, in order to fulfill its function, must be resilient. Traub teaches that the resilient seal ring 65 deform, or flex, to keep slipper seals 67 and 69 in contact with rod 53. However, it is well known in the art that fiberglass is a rigid material. High modulus materials, by definition, resist deformation. Thus, modifying the resilient seal ring 65 as suggested by the examiner would make the sealing ring 65 unsatisfactory for its intended purpose. In order to make out a prima facie case of obviousness, there must be some suggestion or motivation to modify the reference. M.P.E.P § 2143. Where a proposed modification would render the prior art invention unsatisfactory for its intended purpose, there is no suggestion or motivation to make the modification. M.P.E.P § 2143.01. Thus, a *prima facie* case of obviousness has not been made.

For the foregoing reasons, withdrawal of the rejections over the Traub reference is respectfully requested.

Claims 1 and 31 stand rejected under 35 U.S.C. § 103 as being obvious over the combination of Berg (U.S. Patent No. 5,720,404) and Burwell (U.S. Patent No. 6,167,608). This rejection is respectfully traversed. The rejection claims that the rib of Fig. 7 of Berg is the “Y”

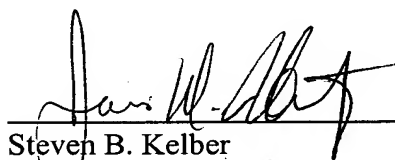
shaped rib of the claims, and that the trunk is the flat top part that connects the two branches. Applicants respectfully disagree. Claims 1 and 31 each require that the trunk have a proximal end and a distal end with both of the branches of the "Y" connected to the proximal end and that the trunk have a width greater than its length. The ribs disclosed in Berg cannot satisfy both of these limitations. Accordingly, Berg does not disclose or suggest the "Y" shaped rib of Claims 1 and 31 and withdrawal of the rejection is respectfully requested.

New Claim 73 has been added. This claim is generic to Claim 14 and 31.

In light of the above, Applicant submit that this application is now in condition for allowance and therefore request favorable consideration. If any issues remain, the Examiner is respectfully requested to contact Applicant's counsel, James M. Heintz at (202) 861-4167.

Respectfully submitted,

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